

Message Text

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FM SECSTATE WASHDC

TO AMEMBASSY SEOUL

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E.O. 11652: N/A

TAGS: PFOR, KS

SUBJECT: FRASER QUESTIONS AND ANSWERS

1. FOLLOWING IS TEXT OF STATEMENT PROVIDED BY ASSISTANT SECRETARY HABIB TO CONGRESSMAN FRASER IN ANSWER TO QUESTIONS ON KOREA RAISED IN JUNE 10 FRASER LETTER. DEPT. REGARDS FRASER LETTER AND HABIB ANSWERS AS PRIVATE CORRESPONDENCE AND DOES NOT INTEND TO MAKE STATEMENT AVAILABLE PUBLICLY. IN RESPONSE TO ROK EMBASSY REQUEST, WE HAVE PROVIDED SUBSTANCE OF STATEMENT BUT HAVE NOT GIVEN EMBASSY COPY.

2. QUOTE. THE FOLLOWING INFORMATION IS SUBMITTED IN REPLY TO SEVERAL SPECIFIC FACTUAL QUESTIONS REGARDING THE REPUBLIC OF KOREA RAISED BY CONGRESSMAN FRASER IN HIS JUNE 10, 1975 LETTER TO ASSISTANT SECRETARY MCCLOSKEY.

3. POLITICAL PRISONERS. THE KOREAN GOVERNMENT HOLDS THAT THERE ARE NO POLITICAL PRISONERS IN KOREA TODAY. THE KOREAN GOVERNMENT MAINTAINS THAT THOSE WHO HAVE BEEN TRIED UNDER THE EMERGENCY MEASURES VIOLATED KOREAN LAWS PROMULGATED IN ACCORDANCE WITH THE KOREAN CONSTITUTION. IN PRACTICE, HOWEVER, THE ACTIVITIES WHICH HAVE BEEN PRO-
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SCRIBED BY EMERGENCY MEASURES NO. 1,4, AND 9 COULD BE CONSIDERED POLITICAL.

4. DURING 1974 A TOTAL OF 203 INDIVIDUALS, INCLUDING

TWO JAPANESE NATIONALS, WERE TRIED AND SENTENCED FOR VIOLATIONS OF EMERGENCY MEASURES NO. 1 AND 4. TWENTY OF THIS TOTAL WERE RELEASED PRIOR TO FEBRUARY 1975. IN FEBRUARY, 148 EMERGENCY MEASURE PRISONERS WERE RELEASED BY A PRESIDENTIAL DIRECTIVE WHICH SUSPENDED THE EXECUTION OF THEIR SENTENCES BUT DID NOT PARDON THEIR VIOLATIONS OF THE EMERGENCY DECREES NOR GRANT AMNESTY. THE REMAINING 35 WERE EXEMPTED FROM THE RELEASE ON THE GROUNDS THAT THEY HAD ALSO VIOLATED OTHER LAWS, PRINCIPALLY THE BROADLY-WORDED ANTI-COMMUNIST AND NATIONAL SECURITY LAWS OF THE REPUBLIC OF KOREA. OF THE 35, EIGHT WHO HAD BEEN SENTENCED TO DEATH WERE EXECUTED ON APRIL 9, ONE DAY AFTER THE KOREAN SUPREME COURT UPHELD THEIR EARLIER CONVICTIONS.

5. TWO OF THE EMERGENCY MEASURE PRISONERS RELEASED IN FEBRUARY -- POET KIM CHI HA AND REVEREND PARK HYON KYU-- HAVE BEEN REARRESTED AND ARE NOW BEING TRIED IN SEOUL. MR. KIM HAS BEEN CHARGED WITH VIOLATIONS OF THE ANTI-COMMUNIST LAW. THE REVEREND PARK WAS ARRESTED ALONG WITH THE REVEREND KIM KWAN SUK, GENERAL SECRETARY OF THE KOREAN NATIONAL COUNCIL OF CHURCHES, AND TWO OTHER NCC-K OFFICIALS ON CHARGES OF EMBEZZLEMENT OF FOREIGN FUNDS. A PROMINENT OPPOSITION LAWYER IS ALSO ON TRIAL ON CHARGES OF VIOLATING THE ANTI-COMMUNIST LAW BY HIS WRITINGS.

6. THERE HAVE BEEN ARRESTS UNDER THE PROVISIONS OF EMERGENCY MEASURE NO. 9 WHICH BAN CERTAIN POLITICAL ACTIVITIES. SEVERAL HUNDRED UNIVERSITY STUDENTS WERE DETAINED IN CONNECTION WITH A DEMONSTRATION IN LATE MAY AT SEOUL NATIONAL UNIVERSITY. WHILE MOST WERE RELEASED AFTER A BRIEF PERIOD OF DETENTION, SEVERAL DOZEN REMAIN UNDER DETENTION. NONE OF THESE STUDENTS HAVE YET BEEN FORMALLY CHARGED WITH VIOLATING EMERGENCY MEASURE NO. 9 NOR HAVE ANY BEEN BROUGHT TO TRIAL. IN ADDITION, A FORMER TONGA ILBO REPORTER AND TWO KOREAN MINISTERS ASSOCIATED LIMITED OFFICIAL USE
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WITH THE METHODIST URBAN INDUSTRIAL MISSION IN SEOUL WERE ARRESTED JUNE 17 ON CHARGES OF VIOLATING EMERGENCY MEASURE NO. 9.

7. IN ADDITION TO THE FOREGOING CASES, AN UNSPECIFIED NUMBER OF PERSONS ARE IN PRISON FOR VIOLATIONS OF THE ANTI-COMMUNIST LAWS OF THE REPUBLIC OF KOREA. MANY OF THESE CASES DATE BACK A NUMBER OF YEARS.

8. THE DEPARTMENT WAS ALSO ASKED ABOUT THE LENGTH OF DETENTION WITHOUT CHARGE OR TRIAL AND THE ACCESS OF LAWYERS AND FAMILIES TO PRISONERS. UNDER EMERGENCY MEASURE NO. 9 PERSONS SUSPECTED OF VIOLATING THE PRO-

VISIONS OF THE DECREE CAN BE HELD WITHOUT TRIAL FOR INDEFINITE PERIODS. AS PREVIOUSLY NOTED, THE STUDENTS DETAINED IN LATE MAY UNDER THE AUTHORITY OF THIS EMERGENCY MEASURE HAVE NOT BEEN CHARGED OR BROUGHT TO TRIAL. UNDER KOREAN CRIMINAL PROCEDURES, DETAINED PERSONS ARE NOT PERMITTED TO SEE THEIR LAWYERS UNTIL THEY HAVE BEEN INDICTED. FAMILY VISITS ARE GENERALLY PERMITTED BUT ARE LIMITED TO IMMEDIATE FAMILY MEMBERS AFTER INDICTMENT OR SENTENCING. THERE HAVE BEEN REPORTS THAT FAMILY MEMBERS WERE NOT PERMITTED TO SEE THE EIGHT CONDEMNED PRISONERS AND THAT THEIR LAWYERS WERE PERMITTED ACCESS ONLY ON A VERY RESTRICTED BASIS.

9. THE KOREAN GOVERNMENT HAS OFFICIALLY STATED THAT TORTURE IS NOT PRACTICED AS PART OF THE PROCESS OF INTERROGATING PRISONERS. HOWEVER, FOUR OF THE EMERGENCY MEASURE PRISONERS WHO WERE RELEASED IN FEBRUARY 1975 STATED THAT THEY HAD BEEN TORTURED DURING THEIR INTERROGATION IN APRIL 1974. IN ADDITION, THIRTEEN CURRENT AND FORMER OPPOSITION MEMBERS OF THE NATIONAL ASSEMBLY CHARGED IN FEBRUARY THAT THEY HAD BEEN TORTURED AFTER BEING ARRESTED IN LATE 1972 AT THE TIME OF MARTIAL LAW AND THE INSTITUTION OF THE YUSHIN SYSTEM. THE DEPARTMENT IS NOT AWARE OF ANY DIRECT REPORTS OF TORTURE SINCE THE STATEMENTS IN FEBRUARY BY THESE TWO GROUPS OF FORMER PRISONERS. THE DEPARTMENT IS ALSO UNAWARE OF ANY CASES IN WHICH CRIMINAL CHARGES HAVE BEEN BROUGHT AGAINST ANY GOVERNMENT INTERROGATORS OR PRISON OFFICIALS ON THE LIMITED OFFICIAL USE
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GROUND THAT THEY PRACTICED TORTURE.

10. ANOTHER QUESTION CONCERNED THE OBSERVATION OF DUE PROCESS IN KOREA. EMERGENCY MEASURE NO. 9 PERMITS INITIAL ARRESTS WITHOUT A WARRANT. TO REMAIN VALID THE ARREST MUST BE APPROVED BY A COURT WITHIN TWENTY-FOUR HOURS. TRIALS FOR VIOLATIONS OF EMERGENCY MEASURE NO. 9 ARE TO BE HELD IN OPEN CIVILIAN COURTS, IN CONTRAST TO THE CLOSED MILITARY COURTS OF MARTIAL LAW WHICH TRIED VIOLATORS OF THE 1974 EMERGENCY MEASURES. THE PRESENT KOREAN CONSTITUTION EXTENDS VIRTUALLY ALL OF THE BASIC RIGHTS AND FREEDOMS LISTED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS. HOWEVER, THE CONSTITUTION PROVIDES THAT THESE RIGHTS MAY BE LIMITED BY LAW.

11. FREEDOM OF OPINION AND EXPRESSION. TWO MAJOR LAWS HAVE RECENTLY BEEN PASSED AFFECTING FREEDOM OF EXPRESSION IN KOREA. THE "ANTI-SLANDER" LAW PASSED BY THE KOREAN NATIONAL ASSEMBLY IN MARCH RESTRICTS FREEDOM OF SPEECH FOR KOREANS WHILE ABROAD OR IN DEALINGS WITH FOREIGNERS WHILE IN KOREA. THIS LAW PROVIDES PENALTIES OF UP TO

SEVEN YEARS FOR VIOLATORS, BUT THERE HAVE NOT YET BEEN ANY CASES UNDER IT. EMERGENCY MEASURE NO. 9 ALSO RESTRICTS FREEDOM OF EXPRESSION BY PROHIBITING "FABRICATING OR DISSEMINATING FALSE FACTS" AND THE ADVOCACY OF ANY CHANGE IN THE PRESENT CONSTITUTION. IN ADDITION, THIS DECREE RESTRICTS FREEDOM OF THE PRESS BY INCLUDING THE MEDIA UNDER ITS COVERAGE AND BY SPECIFICALLY PROHIBITING THE REPORTING OF ACTS WHICH VIOLATE EMERGENCY MEASURE NO. 9, INCLUDING CRITICAL REMARKS MADE BY MEMBERS OF THE NATIONAL ASSEMBLY. TO INSURE THE OBSERVANCE OF THESE RESTRICTIONS, GOVERNMENT AGENTS HAVE BEEN ASSIGNED TO ALL MEDIA TO REVIEW THE CONTENTS OF NEWSPAPER AND RADIO REPORTS.

12. RIGHTS TO TRADE UNIONS. THERE HAVE BEEN NO SPECIAL OR NEW RESTRICTIONS PLACED ON THE RIGHTS OF TRADE UNIONS IN KOREA DURING THE PAST YEAR. THE RIGHT TO ORGANIZE AND BARGAIN COLLECTIVELY REMAIN GUARANTEED BY THE CONSTITUTION AND KOREAN LABOR LAW. AT THE SAME TIME, THE RIGHT TO STRIKE REMAINS PROHIBITED. WHILE GROWING,
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TRADE UNION MEMBERSHIP IS STILL ONLY A RELATIVELY SMALL FRACTION OF THE TOTAL LABOR FORCE. BECAUSE OF ITS POLITICAL POTENTIAL, THE KOREAN GOVERNMENT HAS ALWAYS KEPT A CLOSE WATCH ON DEVELOPMENTS WITHIN THE TRADE UNION MOVEMENT. IN THIS CONNECTION, THERE HAVE BEEN REPORTS OF GOVERNMENT PRESSURE AGAINST SOME LABOR LEADERS AND WORKERS WHO HAVE BEEN INVOLVED IN CATHOLIC AND PROTESTANT SOCIAL ACTION GROUPS.

13. FREEDOM OF PEACEFUL ASSEMBLY AND ASSOCIATION. IT HAS LONG BEEN A STANDING REQUIREMENT IN KOREA THAT ALL OUTDOOR MEETINGS OF LARGE GROUPS HAVE PRIOR GOVERNMENT PERMISSION. INDOOR MEETINGS COULD BE HELD WITHOUT OFFICIAL CONSENT. UNDER EMERGENCY DECREE NO. 9, HOWEVER, ALL ASSEMBLIES OR DEMONSTRATIONS AIMED AT CRITICISM OF THE CONSTITUTION ARE ILLEGAL, AS ARE UNAUTHORIZED STUDENT DEMONSTRATIONS OR ACTIVITIES.

14. WITH REGARD TO POLITICAL PARTIES, THE POLITICAL PARTY LAW SETS FORTH EXTENSIVE LEGAL REQUIREMENTS FOR THE FORMATION AND OPERATION OF POLITICAL PARTIES. A

PARTY MUST REGISTER WITH THE CENTRAL ELECTION MANAGEMENT COMMITTEE; IN ORDER TO BE REGISTERED IT MUST MEET CERTAIN CONDITIONS PERTAINING TO SIZE AND THE NUMBER AND LOCATION OF PARTY CHAPTERS. IN PRACTICE, THE POLITICAL PARTY LAW MAKES THE FORMATION OF SPLINTER PARTIES DIFFICULT BUT DOES NOT ESTABLISH ANY IDEOLOGICAL CONDITIONS FOR PARTY FORMATION. HOWEVER, ARTICLE 7 OF

THE KOREAN CONSTITUTION PROVIDES FOR PROCEDURES TO DIS-
SOLVE POLITICAL PARTIES WHOSE PURPOSES OR ACTIVITIES
"ARE CONTRARY TO THE BASIC DEMOCRATIC ORDER, OR
ENDANGER THE EXISTENCE OF THE STATE." IN ADDITION, THE
NATIONAL SECURITY AND ANTI-COMMUNIST LAWS RESTRICT THE
FORMATION AND ACTIVITIES OF "ANTI-STATE ORGANIZATIONS",
INCLUDING THOSE WHICH "OPERATE ALONG THE LINES OF THE
COMMUNISTS." IT SHOULD BE NOTED THAT, WHILE THESE LAWS
IN EFFECT PREVENT THE ORGANIZATION OF A COMMUNIST PARTY
IN THE REPUBLIC OF KOREA, THE DEMOCRATIC SOCIALIST PARTY,
WHICH ADVOCATES A MILD FORM OF SOCIALISM, HAS 27
CHAPTERS AND IS OFFICIALLY RECOGNIZED AS A POLITICAL
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PARTY. UNQUOTE. KISSINGER

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